

SA/MW/MJ/JK F. #

U.S. Department of Justice

United States Attorney Eastern District of New York

271 Cadman Plaza East Brooklyn, New York 11201

December 11, 2016

By ECF

The Honorable Brian M. Cogan United States District Judge United States District Court Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201

Re: <u>United States v. Harun, et al. 12 CR 134 (BMC)</u>

Dear Judge Cogan:

The government writes in brief opposition to the request by defense counsel Joshua Dratel, Esq., for an extension of the dates by which the defendant will provide expert notice as to Mark Sageman, and by which the defendant will file a reply to the government's response in opposition to the defendant's motion to suppress. For the reasons the government has previously articulated to the Court in writing and at various appearances before the Court, and given that the defendant is represented by multiple attorneys, it is unclear, based on the defendant's submission, why Sageman's expert report and the defendant's reply in response in opposition to the defendant's motion to suppress could not have been filed on Friday, or otherwise why they cannot be filed by the end of this week, along with the expert notice for Frakt (currently due on December 14 along with a response in opposition to the government's motion to preclude a defense of combatant immunity).

Moreover, the government is still awaiting a classified addendum referenced in the defendant's unclassified <u>Daubert</u> challenge to Evan Kohlmann, which apparently has been drafted, but was not timely filed with the Classified Information Security Officer, and thus is unavailable to the government. In light of this omission, the government's response to the <u>Daubert</u> challenge, undoubtedly, will be delayed.¹

¹ Depending on the content of the addendum, the government may move to strike any supplemental submission.

Given the above, the government respectfully requests that the Court order the immediate filing of any classified addendum to the defendant's Daubert challenge, and the filing of expert notice for Sageman as well as any reply to the government's opposition to the defendant's motion to suppress, by the end of the week.

Respectfully submitted,

ROBERT L. CAPERS United States Attorney

By: /s/

Shreve Ariail Melody Wells Matthew Jacobs Assistant U.S. Attorneys

Joseph Kaster Counterterrorism Section U.S. Department of Justice

cc: All defense counsel of record, via ECF and e-mail